

Remarks

Claims 1-27 are pending in this application. Claims 1 and 10 have been amended, and no claims have been added or canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

Rejection of Claims 1-2, 7-11, 14, 17-20, and 22-27 Under 35 U.S.C. § 102(e) Over Luce

Claims 1-2, 7-11, 14, 17-20, and 22-27 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2004/0002640 to Luce ("Luce"). Claim 1 has been amended to recite "a display . . . oriented toward the user for displaying the applanation pattern to the observing eye" of the user. Claim 10 has been amended to recite "a housing having a first ocular portion and a second ocular portion on one side thereof." Support for these amendments can be found, for example, in FIGS. 1 and 3.

In contrast, Luce discloses a tonometer which is clearly not designed for self-measurement of intraocular pressure as in Applicants' claimed invention. Luce discloses "an operator eyepiece 16 at one end of head portion 14, a front window 18 at an opposite end of head portion 14 for facing a patient, and a liquid crystal display 20 with pushbutton control overlay 22 angled toward the operator near operator eyepiece 16" (*see* Luce, ¶ [0028]; FIG. 1). As such, Luce does not disclose or suggest a display oriented toward the patient (user), or a housing with first and second ocular portions on one side thereof as claimed by Applicants.

Turning to claim 20, Applicants respectfully traverse the rejection of this claim. Claim 20 recites "placing a test eye and an observing eye of the user adjacent to the housing;" "displaying the applanation pattern to the observing eye; and determining the intraocular pressure of the test eye based on the force applied by the tonometer tip upon observation of a selected applanation pattern by the observing eye." Contrary to Applicants' claimed invention, Luce does not disclose or suggest displaying the applanation pattern to the observing eye of the user, as only front window 18 or contact tip 80 faces the user (patient) (*see* Luce, ¶ [0028], [0048]; FIGS. 1 and 9). Furthermore, Luce does not disclose or suggest determining the intraocular pressure of

the test eye based on the force applied by the tonometer tip upon observation of a selected applanation pattern by the observing eye. In Luce's method, the display 20 is not facing the user (patient), but rather the operator, and the intraocular pressure is not determined by the user observing a selected applanation pattern, but rather the intraocular pressure is based on the magnitude of the force at the time of a predetermined displacement on the eye for both the inward and outward strokes (*see* Luce, ¶ [0050]).

Accordingly, claims 1, 10, and 20 are patentably distinguishable over Luce, and Applicants respectfully request reconsideration and withdrawal of the rejection of these claims, along with their corresponding dependent claims, under 35 U.S.C. § 102(e).

Rejection of Claims 4-6
Under 35 U.S.C. § 103(a) Over Luce and Davidson

Claims 4-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Luce in view of U.S. Patent No. 6,981,946 issued to Davidson ("Davidson"). Davidson is not prior art. Davidson has a filing date of April 17, 2003, a publication date of October 21, 2004, and an issue date of January 3, 2006. As the instant application has an effective filing date of October 18, 2002, Davidson is not available as prior art under 35 U.S.C. § 102 (a), (b), or (e). Regardless, claims 4-6 depend from and contain all the limitations of claim 1 which, for at least the reasons described above, is patentably distinguishable over Luce, either alone or in combination with Davidson. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Conclusion

In summary, Applicants believe that the claims meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

No fees are believed to be due in connection with this paper. However, please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

BRUCE E. COHAN et al.

By /Stephanie M. Mansfield/
Stephanie M. Mansfield, Ph.D.
Reg. No. 43,773
Attorney/Agent for Applicant

Date: February 23, 2009

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351